

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

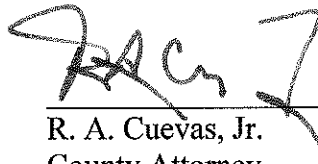
DATE: April 2, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to the Rules
of Procedure of the Board of
County Commissioners;
amending Section 2-1 of the
Code

This item was amended at the Economic Development & PortMiami Committee on March 14, 2013. It was amended at committee to allow each Commissioner to choose between two ways to take the oath of office during the installation ceremony.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: April 2, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Ordinance Relating to the Rules of Procedure of the Board of County Commissioners;
Amending Section 2-1 of the Code

The proposed ordinance amends Section 2-1 of the Code and provides procedures for County Commissioners to take the oath of office. Implementation of this ordinance will not have a fiscal impact to the County.

A handwritten signature in black ink, appearing to read "Edward Marquez", written over a horizontal line.

Edward Marquez
Deputy Mayor

Fis4013



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 2, 2013

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
4-2-13

ORDINANCE NO. _____

ORDINANCE RELATING TO THE RULES OF PROCEDURE
OF THE BOARD OF COUNTY COMMISSIONERS;
AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; PROVIDING PROCEDURES FOR
COUNTY COMMISSIONERS TO TAKE THE OATH OF
OFFICE; PROVIDING SEVERABILITY, INCLUSION IN THE
CODE, AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade County Home Rule Charter provides that the term of
office of County Commissioners shall commence on the second Tuesday next succeeding the
date of the general election in November; and

WHEREAS, Article II, Section 5(b) of the Florida Constitution provides that each state
and county officer, before entering upon the duties of the office, shall take the following oath:

I do solemnly swear (or affirm) that I will support, protect, and
defend the Constitution and Government of the United States and
of the State of Florida; that I am duly qualified to hold office under
the Constitution of the state; and that I will well and faithfully
perform the duties of (title of office) on which I am now about to
enter. So help me God; and

WHEREAS, Article II, Section 5(b) does not prescribe the manner for taking the oath of
office and it does not require the execution of a written oath of office, it simply requires that an
oath be taken; and

WHEREAS, section 876.05, Florida Statutes, as interpreted by courts, requires the
following statutory oath for any person who is an officer of or on the payroll of the state, or any
of its departments and agencies, subdivisions, counties, cities or school districts:

I, _____, a citizen/lawful resident of the State of Florida and of the United States of America, and being employed by or an officer of and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida; and

WHEREAS, section 876.05 requires a written, notarized copy of the statutory oath to be preserved to memorialize the fact that the oath was taken; and

WHEREAS, the Florida Supreme Court has held that the requirements of section 876.05 are satisfied when an elected official takes the oath of office as set forth in Article II, Section 5(b) of the Florida Constitution, and that the constitutional oath of office can be taken in either a verbal or written manner; and

WHEREAS, section 92.50, Florida Statutes, provides that an oath may be “taken or administered by or before any judge, clerk, or deputy clerk of any court of record within this state, including federal courts, or before any United States commissioner or any notary public within this state”; and

WHEREAS, this Board wishes to adopt procedures for the oath of office for newly-elected or re-elected County Commissioners prior to entering upon the duties of the office of County Commissioner,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< shall be added. Remaining provisions are now in effect and remain unchanged.

Sec 2-1. RULES OF PROCEDURE OF THE COUNTY COMMISSION.

* * *

**PART 9. ADDITIONAL ORDINANCES
PRESCRIBING COUNTY
COMMISSION PROCEDURE**

* * *

>>Rule 9.03.06 Procedures for Oath of Office for County Commissioners.

- (a) Prior to entering upon the duties of the office, each newly-elected or re-elected County Commissioner shall take the oath of office as set forth in Article II, Section 5(b) of the Florida Constitution or as otherwise required by law. Each Commissioner shall, at his or her option, either:
 - 1. Verbally take the oath of office; or
 - 2. Execute a written oath of office as set forth in substantially the form attached to this ordinance or as otherwise required by law.
- (b) The oath of office under either paragraphs (a)(1) or (a)(2) above shall be administered by a person authorized to administer the oath of office pursuant to Florida law. Such person shall sign an acknowledgement of administration of the oath of office as set forth in substantially the form attached to this ordinance.
- (c) The Clerk of the Board shall retain in the public records each executed written oath of office and each executed acknowledgement of administration of the oath of office.
- (d) Nothing contained in this section shall prevent the Board of County Commissioners from holding an installation ceremony for County Commissioners. At the installation ceremony, Commissioners may take a ceremonial oath of office which

shall be administered<<[[as follows]]²>>at each
Commissioner's option, in one of the two following ways:<<

- >>a. The Clerk or other official administering the
oath shall state the oath of office in its entirety as
set forth in Article II, Section 5(b) of the Florida
Constitution or as otherwise required by law, as
follows:

Do you (Commissioner's name) solemnly
swear (or affirm) that you will support,
protect, and defend the Constitution and
Government of the United States and of the
State of Florida; that you are duly qualified
to hold office under the Constitution of the
state; and that you will well and faithfully
perform the duties of County Commissioner
on which you are now about to enter. So
help you God<<

[[b.]] >>After the Clerk or other official has stated
the oath in its entirety, the Commissioner shall then
say "I do<<>>," or

- b. The Commissioner shall repeat after the Clerk of
other official administering the oath of office the
oath as set forth in Article II, Section 5(b) of the
Florida Constitution or as otherwise required by
law.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance
is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby
ordained that the provisions of this ordinance, including any sunset provision, shall become and
be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may
be renumbered or relettered to accomplish such intention, and the word "ordinance" may be

² Committee amendments are indicated as follows: Words double stricken through and/or
[[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are
added.

changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Jess M. McCarty

Prime Sponsor: Commissioner Dennis C. Moss